

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMPASS, INC.

Plaintiff

v.

ZILLOW, INC., ZILLOW GROUP, INC.,
and TRULIA, LLC,

Defendants.

Case No. 1:25-cv-05201-JAV

**DECLARATION OF KRISTY HAIRSTON IN SUPPORT OF
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

I, Kristy Hairston, hereby declare as follows:

1. I am an employee of Compass, Inc (“Compass”).
2. I submit this Declaration in support of Plaintiff Compass’s Motion for a Preliminary Injunction. I have personal knowledge of the matters set forth in this declaration.
3. I currently serve as a Regional Vice President for Tennessee, Kansas, and Missouri, and I am based in Compass’s Green Hills Office in Nashville, Tennessee.
4. As part of my job duties, I oversee Compass-affiliated agents in my region. In addition to other duties, some of my primary responsibilities are to understand the issues agents face in their markets, help them address these issues and succeed, and provide strategies to help Compass agents differentiate themselves when pitching for home sellers and buyers’ business. I also work on strategies to ensure that Compass’s agents and clients remain with Compass. In addition, I am responsible for ensuring that my agents follow state regulations and local multiple listing service (“MLS”) rules. I regularly communicate with other Regional Vice Presidents in other Compass regions and with Compass leadership about these issues.

I. Compass's 3-Phased Marketing Strategy

5. I have spoken extensively to agents about how they have used Compass's 3-Phased Marketing Strategy to better serve their clients. Through those conversations, I have learned that there are several types of home sellers that use Compass's 3-Phased Marketing Strategy (or aspects of it) for a variety of needs and benefits.

6. One category of homeowners using the strategy are those who are not ready to sell their home but will be soon or would otherwise consider doing so for the right offer. An example is parents who are waiting for their kids to finish school or graduate before downsizing. These home sellers frequently have a crucial timing component because they have either been unsuccessful selling in the past or have specific deadlines that complicate the process. Thus, Compass's 3-Phased Marketing Strategy can be used to generate buzz and excitement about their home and get real feedback on the property and potential listing price before it starts accruing days on market. This pre-marketing helps the home sellers understand the market and their properties and situations much better. It also helps these home sellers sell their homes much faster—many agents report selling homes that have been pre-marketed or have gone through Compass's 3-Phased Marketing Strategy within days of listing the home on an MLS.

7. Another category of homeowners using the strategy are those who want to sell their home but know they cannot sell the home as-is based on its current condition. Most commonly, these home sellers believe that they will not get the best price for the home without making meaningful upgrades or staging of the home. They are stuck in a tough situation where they also fear that if they wait too long to start marketing the home, such as if they wait until the upgrades or staging of their home is complete, they will either miss a busy selling time period, such as the spring market, or that they will not sell their home in time to meet other obligations, such as moving to their next home or location.

8. A third category of home sellers that use Compass's 3-Phased Marketing Strategy are sellers who highly value their privacy. These home sellers can be high-profile individuals, such as public officials or celebrities that want to be strategic about the online visibility of their home interior or floorplans, or individuals undergoing significant personal issues that they do not want to broadcast to the public, such as a divorce, financial difficulty, death or sickness, or new jobs. The Compass 3-Phased Marketing Strategy lets these home sellers first test the market with the Compass Private Exclusives pool of buyers and potentially make a sale during that phase without public announcement that they are selling their home. At any time, home sellers can instruct their Compass agents to submit their listings to the MLS.

9. While office exclusives have been around in the real estate industry for decades, Compass's approach to executing this strategy, through Compass Private Exclusives, has been unsurpassed. Traditionally, office exclusives were shared at sales meetings or live on a whiteboard in the office, but not otherwise disseminated across a brokerage. Today, Compass relies on several technological tools to post and share its Private Exclusives across its national network of over 30,000 agents and to allow its agents to share such listings easily with their individual clients. Compass also relies on Compass.com and the Compass.com "Black Box," through which Compass advertises the number of Private Exclusive listings in an area that are responsive to a real estate consumer's home searches performed on Compass.com. Compass.com also shows its home sellers' full Coming Soon listings on the Compass platform publicly for all real estate consumers to see. A true and correct copy of a screenshot of Compass.com from the Nashville area is attached as **Exhibit A** to this declaration.

10. I have seen how successful the model can be at attracting clients and delivering value to home sellers. I have also heard from other agents that have had positive experiences

using the model, including some agents who have told me that they have been hired by clients specifically because of the pre-marketing options offered by Compass. I have also seen other brokerages, including Sotheby's, adopt similar strategies in my area.

11. The 3-Phased Marketing Strategy is also beneficial for buyers. The 3-Phased Marketing Strategy enables buyers to search, identify, tour, and prepare their strongest offer for a home by giving them more time to prepare. Buyers also receive the benefits of viewing off-market (Compass Private Exclusives) properties early that might not be ready for a full public listing, expanding the property inventory they may consider compared to other buyers. It also provides buyers with additional convenience and flexibility by allowing them time to see homes accounting for their work and personal schedules.

II. The Scope of the Zillow Listing Access Standards

12. Through my day-to-day engagement with agents and other industry professionals, I learned on or around April 10, 2025, that Zillow adopted new policies governing listings on its platform called Zillow's Listing Access Standards ("Zillow's LAS").

13. The Zillow LAS impacts all Private Exclusive and Coming Soon listings. In this respect, the Zillow LAS goes even further than the National Association of Realtor's Clear Cooperation Policy (the "CCP") and its Multiple Listing Options for Sellers ("MLOS") in its restrictions for public marketing. This is especially true in regions where the indefinite public marketing of properties is allowed before syndication via MLS (where it is sent to Zillow). The Zillow LAS therefore has taken control away from the local oversight of regional MLSs by creating additional restrictions imposed by Zillow on home sellers and their agents.

III. The Effect of the Zillow LAS

14. Since the Zillow LAS was announced, there has been confusion in the industry regarding what is considered a violation of the Zillow LAS. I've heard from numerous agents who, along with their sellers, are deeply frustrated and confused about the Zillow LAS. Traditionally, listing appointments with home sellers and agents are spent discussing the sellers' needs and reviewing how they want their home to be marketed. Agents now have to disclose to their home selling clients that listings may be banned from Zillow if the seller chooses to deploy Compass's 3-Phased Marketing Strategy (or any part of it). This has put homeowners in a difficult position, forcing them to choose between their personal priorities for selling their homes and posting to Zillow's massive userbase at some later point when the listing goes active and widely public. Many clients have expressed concern about using the 3-Phased Marketing Strategy, or even refused to do so, because of the Zillow LAS. Indeed, sellers have asked specifically about the Zillow LAS immediately after being presented with 3-Phased Marketing Strategy as a selling option. This is because home sellers know Zillow as the industry standard, the default brand for visibility in the real estate industry, and are thus concerned about losing access to its vast buyer pool if their listing is not displayed on the Zillow platform.

15. Similarly, since the Zillow LAS was announced, agents have told me that non-Compass agents are also leveraging the Zillow LAS and the confusion and misinformation surrounding it, to disparage Compass and win over home seller clients. Other agents are specifically telling Compass prospective or active home seller clients that their listings will be banned from Zillow if they use a Compass agent to sell their homes. Prior to the Zillow LAS, a Compass agent could point to the 3-Phased Marketing Strategy as a key and unique differentiating factor to choose Compass and the agent. And agents in my office had been doing that routinely since the 3-Phased Marketing Strategy was launched last year. But now Compass

agents are forced to attend these interviews in a defensive position, starting off on the backfoot and having to defend the misinformation about Compass's strategies. I have heard from agents that they believe they have lost home selling clients, or the opportunity to pitch for them, because of this confusion and misinformation and the Zillow LAS.

16. Additionally, I have heard that some home sellers feel they have been misled or lied to by their agents because of the risk that now comes with using the 3-Phased Marketing Strategy. Some home sellers have expressed that they decided to work with a Compass agent *because* the agent promised the ability to pre-market the home as an option, and they now feel that they were misled by the agent because they potentially cannot do so or can do so only by incurring the risk of being banned from Zillow.

17. If a home seller chooses to use the 3-Phased Marketing Strategy and her listing gets banned from Zillow, it is my understanding that the seller would have to terminate her relationship with the Compass agent and re-list their home with another agent at a different brokerage to have the home displayed on Zillow. These concerns—both of being terminated by clients or not winning clients in the first place because of Compass's association with the Zillow LAS—already have impacted my agents' desire or willingness to deploy the 3-Phased Marketing Strategy to help their home selling clients. In the region I oversee, I have witnessed a drop in the adoption rate for listings using the 3-Phased Marketing Strategy. Before the Zillow LAS, we were seeing strong adoption of the 3-Phased Marketing Strategy in my region. My region's adoption rate initially increased from 3% in November 2024 (when the strategy was first launched) to nearly 32% in April 2025. Since then, in the two months since the Zillow LAS was announced, adoption rates have fallen below 20%.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 26th day of June 2025.


Kristy Hairston